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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,096	01/22/2004	Timothy Alan Dietz	AUS920030527US1	6048
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IBM CORPORATION				
PO BOX 12195				
DEPT YXSA, BLDG 002				
RESEARCH TRIANGLE PARK, NC 27709				
EXAMINER				
PARKER, BRANDI P				
ART UNIT		PAPER NUMBER		
3624				
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10/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/763,096

**Applicant(s)**

DIETZ ET AL.

**Examiner**

BRANDI P. PARKER

**Art Unit**

3624

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6 and 11-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-10, and 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Acknowledgements***

1. The following is a Final Office action in response to communications filed on July 17, 2008. Claims 1, 4, 7 and 10 have been amended. Claims 5-6 and 11-18 have been cancelled. Claims 19-22 are newly added.

***Response to Applicant's Remarks***

2. Applicant's cancellation of claims 13-18 renders the rejection under 35 U.S.C. § 112, second paragraph moot.

3. In response to Applicant's argument that Edinger does not teach selecting of a category or type of defect, Examiner respectfully disagrees. Edinger teaches selecting the type of defect from a severity category, more than just a making a numerical determination. For example, Edinger describes what type of defect is present under the severity type category (i.e. the customer is able to use the product, but operations are severely limited, or the customer is able to use the product, with less significant features unavailable) (paragraph 0212-0216). Therefore, Edinger does teach and suggest this limitation.

4. In response to Applicant's argument that Schneier teaches the entry of unprompted general comments made by telephone to a service agent, but such

comments are not relevant to defects or are available for a subsequent market analysis selecting of a category or type of defect, Examiner points out that Applicant's argument relates to the intended use of the system which is not germane to patentability. *In re Casey*, 152 USPQ 235 (CCPA 1967). Therefore, Schneier does teach and suggest this limitation.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 7-10 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edinger et al (US 2002/0194047) in view of Schneier et al (US 7159237).

7. As to **claims 1, 7 and 19**, Edinger teaches a system for tracking defects in said software products comprising:

- a. a computer controlled display associated with said service center (paragraph 0099, abstract);
- b. means on said display, ancillary to a customer telephone inquiry to said service center, for prompting said service agent at said service center to

interactively select a software defect category to which said inquiry may relate (paragraph 0212-0228) ; and

c. means on said display responsive to a selection of a software defect category, to interactively prompt said service agent, during said telephone inquiry, to interactively respond to a set of statistical questions related to the tracking of the defect category (paragraph 0217).

d. means for analyzing said stored data (paragraph 0287-0288); and

e. means for distributing the results of the analysis to the developers of said marketed products (paragraph 0263-0264).

Edinger does not teach where the service agent enters unprompted comments. However, Schneier teaches means for enabling the service agent to enter unprompted general comments relative to defects; and wherein said means for analyzing consider said general comments (column/line 13/63-14/17, Figure 7 and 8).

It would have been obvious to one of ordinary skill in the art to include the business system of Edinger with the ability to allow the service agent enters unprompted comments as taught by Schneier since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

8. With respect to **claims 2, 8 and 20**, Edinger teaches a database means associated with said service center for storing data representative of the responses of said service agent (paragraph 0017).

9. Regarding **claims 3, 9 and 21**, Edinger teaches means enabling the service agent to optionally enter said data into said database (paragraph 0017, 0212-0228).

2. As to **claims 4, 10 and 22**, Edinger teaches means on said display for prompting said service agent prompt on a real-time basis coincident with the time during which the service agent responds within said telephone inquiry (paragraph 0018).

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thurs. 8-5pm.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley B. Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRANDI P PARKER/  
Examiner, Art Unit 3624

/Bradley B Bayat/  
Supervisory Patent Examiner, Art Unit 3624